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NORTHERN DISTRICT OF CALIFORNIA

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SEALED
BY COURT ORDER

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

U.S. COMMODITY FUTURES TRADING)
COMMISSION and THE COMMISSIONER)
OF CORPORATIONS OF THE STATE OF)
CALIFORNIA,)

Plaintiffs,)

vs.)

NATIONAL INVESTMENT)
CONSULTANTS, INC., a California)
corporation, SOUTH CHINA)

Case No.:

Ex Parte Motion for Statutory Restraining
Order, Expedited Discovery, Order to Show
Cause, and Other Ancillary Relief

JSW

C 05 2641

INVESTMENTS, INC., a California corporation,
PACIFIC BEST GROUP LTD, a.k.a. PACIFIC BEST COMPANY LTD, a British Virgin Islands Corporation, YI KERRY XU, an individual, RUN PING ZHOU a.k.a FLORA ZHOU, an individual, and WEI M. TSE a.k.a. RAYMOND TSE, an individual,
Defendants,
and
THERESA C. WONG, an individual,
Relief Defendant.

FILED UNDER SEAL

Pursuant to Section 6c of the Commodity Exchange Act ("Act"), 7 U.S.C. § 13a-1 (2002), Plaintiffs, the United States Commodity Futures Trading Commission ("Commission") and the Commissioner of Corporations of the State of California ("State of California") collectively, "Plaintiffs"), move for a statutory restraining order, a preliminary injunction, expedited discovery, and other ancillary relief against National Investment Consultants, Inc., South China Investments, Inc., Pacific Best Group Limited, a.k.a. Pacific Best Company Ltd., Run Ping Zhou, a.k.a Flora Zhou, Yi Kerry Xu, and Wei M. Tse, a.k.a. Raymond Tse, (collectively "defendants"):

- (1) prohibiting defendants from violating Sections 4b(a)(2)(i) and (iii) of the Act, 7 U.S.C. §§ 6b(a)(2)(i) and (iii)(2004), and Commission Regulations 1.1(b)(1) and (3), 17 C.F.R. §§ 1.1(b)(1) and (3)(2002);
- (2) freezing the assets of defendants;
- (3) prohibiting defendants, their agents, attorneys, partners, servants, representatives, employees, any person(s) acting or purporting to act for or on their behalf, and corporate and partnership entities, from dissipating, transferring or encumbering defendants' or relief defendants' assets, including any assets held outside the

1 United States;

2 (4) requiring any financial or brokerage institution, business entity, or person that
3 holds, controls or maintains custody of any account or asset of, or at any time
4 since July 1, 2000 has held, controlled, or maintained custody of, any account of
5 defendants, to: (a) prohibit any person from transferring, dissipating, withdrawing
6 or encumbering any such current assets; (b) deny any person access to defendants'
7 safe deposit boxes; and (c) provide the Plaintiffs with a statement describing
8 assets held on behalf of defendants and allowing representatives of the Plaintiffs
9 access to inspect and copy records pertaining to the accounts;
10

11 (5) requiring the defendants to: (a) provide the Plaintiffs with a full accounting,
12 within three business days of the order's service, of documents, assets and all
13 funds received from clients and the use of or current location of all such funds; (b)
14 provide the Plaintiffs with a list containing the names, addresses, and telephone
15 numbers of all of defendants' clients; (c) transfer foreign-held assets and
16 documents to the United States; and (d) sign consents to the release of financial
17 records that waive foreign bank secrecy laws;
18

19 (6) prohibiting defendants, their agents, attorneys, partners, servants, representatives,
20 employees, attorneys, any person(s) acting or purporting to act for or on their behalf
21 from: (1) destroying or altering books, records or other documents of defendants and
22 relief defendants; and (2) denying the receiver and agents of Plaintiffs access to
23 inspect and copy any such books, records and documents of defendants either on or
24 off the premises where they may be situated; and
25

26 (7) allowing expedited discovery in advance of discovery allowed by Rule 26 of the
27 Federal Rules of Civil Procedure.
28

1 In support of this motion, Plaintiffs respectfully refer the Court to the Plaintiffs'
2 Memorandum of Law and exhibits filed herewith. As explained in Plaintiffs' Memorandum of
3 Law, the Defendants have engaged in the fraudulent solicitation of investor funds and have
4 offered illegal off-exchange futures contracts in violation of Sections 4b(a)(2)(i) and (iii) and 4(a)
5 of the Act, 7 U.S.C. §§ 6b(a)(2)(i) and (iii) and 6(a)(2004) and Commission Regulations
6 1.1(b)(1) and (3), 17 C.F.R. §§ 1.1(b)(1) and (3)(2002).
7

8 Unless the Court grants the relief for a statutory *ex parte* restraining order, it will be
9 unable to preserve funds for victims of Defendants' unlawful activities and to prevent the
10 destruction of records and other evidence of defendants' unlawful activities.
11

12 For these reasons, and as more fully set forth in the contemporaneously-filed
13 memorandum of points and authorities, and to enable Plaintiffs to determine the extent of
14 defendants' unlawful activities, expedited discovery is necessary.

15 WHEREFORE, Plaintiffs respectfully request that all relief requested herein be granted,
16 and that this Court enter the proposed statutory restraining order freezing assets, protecting
17 defendants' books and records, grant plaintiff's request to conduct expedited discovery for the
18 purpose of discovering defendants' assets, and to issue an order to show cause why a preliminary
19 injunction should not be issued by this Court.
20

21 Dated: June 28, 2005
22


23 Respectfully submitted,
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